

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Mbaye et. al.

Plaintiff(s)

v.  
RCI Hospitality Holdings, Inc. et al

Defendant(s)

X

\_23\_-CV-\_02967\_ (VSB)

**CASE MANAGEMENT PLAN  
AND SCHEDULING ORDER**

VERNON S. BRODERICK, United States District Judge:

Pursuant to Rules 16-26(f) of the Federal Rules of Civil Procedure, the Court hereby adopts the following Case Management Plan and Scheduling Order:

1. All parties [consent \_\_\_\_ / do not consent X] to conducting all further proceedings before a United States Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. [*If all consent, the remainder of the Order need not be completed at this time, and the parties should instead complete the AO 85 Notice, Consent, and Reference of a Civil Action to a Magistrate Judge, available at <https://www.nysd.uscourts.gov/forms/consent-proceed-us-magistrate-judge>.*]
2. The parties [have X / have not \_\_\_\_] engaged in settlement discussions.
3. This case [is X / is not \_\_\_\_] to be tried to a jury.
4. No additional parties may be joined after 30 days from the entry of this order absent a showing of good cause under Federal Rule of Civil Procedure 16.
5. No additional causes of action or defenses may be asserted after 30 days from the entry of this order absent a showing of good cause under Federal Rule of Civil Procedure 16.
6. Initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure shall be completed no later than November 2, 2023 [*Absent exceptional circumstances, within 14 days of the date of the parties' conference pursuant to Rule 26(f).*]
7. All fact discovery is to be completed no later than February 16, 2024 [*A period not to exceed 120 days unless the Court finds that the case presents unique complexities or other exceptional circumstances.*]

8. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided that the parties meet the deadline for completing fact discovery set forth in ¶ 7 above.
  - a. Initial requests for production of documents shall be served by November 20, 2023.
  - b. Interrogatories shall be served by November 20, 2023.
  - c. Depositions shall be completed by February 2, 2024
    - i. Absent an agreement between the parties or an order from the Court, depositions are not to be held until all parties have responded to initial requests for document production.
    - ii. There is no priority for depositions by reason of a party's status as a plaintiff or a defendant.
    - iii. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
  - d. Requests for admissions shall be served no later than January 15, 2024.
9. All expert discovery, including disclosures, reports, production of underlying documents, and depositions shall be completed by March 18, 2024.
10. All discovery shall be completed no later than March 25, 2024.
11. No later than April 1, 2024 [***to be completed by the Court***], the parties are to submit a joint letter updating the Court on the status of the case, including but not limited to whether either party intends to file a dispositive motion, what efforts the parties have made to settle the action, whether any discovery disputes remain outstanding, and whether the parties request referral to a Magistrate Judge for settlement purposes. If either party contemplates filing a dispositive motion, the parties should be prepared to discuss a briefing schedule at the post-discovery conference.
12. The Court will conduct a telephonic post-discovery conference on April 12, 2024 at 11:00 AM. [***To be completed by the Court***.] The dial-in number is 888-363-4749 and the conference code is 2682448.
13. Unless otherwise ordered by the Court, the joint pretrial order and additional submissions required by Rule 6 of the Court's Individual Rules and Practices shall be due 30 days from the close of discovery, or if any dispositive motion is filed, 30 days from the Court's decision on such motion. This case shall be trial ready 60 days from the close of discovery or from the Court's decision on any dispositive motion.

14. Counsel for the parties propose the following alternative dispute resolution mechanism for this case:

- a.  Referral to a Magistrate Judge for settlement discussions.
- b.  N/A Referral to the Southern District's Mediation Program. [Note that employment discrimination cases and cases brought under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq., are designated for automatic referral to the Court's Alternative Dispute Resolution program of mediation. Accordingly, counsel in such cases should select 14(b).]
- c.  Retention of a private mediator.

The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.

15. The parties have conferred and their present best estimate of the length of trial is 2-3 days.

SO ORDERED.

Dated: 10/20/2023  
New York, New York



Vernon S. Broderick  
United States District Judge